

# **South Dakota Management Plan Section 5310, 5311 and 5339 Programs CFDA 20.513, 20.509, 20.526**

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**DEPARTMENT OF  
TRANSPORTATION**

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## **Program Overview**

The Federal Transit Administration (FTA) awards grants under Section 5311, 5310 and 5339 to designated recipients in the urbanized areas (UZAs) and states for financing operation, capital bus and bus-related expenditures that support the continuation and expansion of public transportation services in the United States.

The South Dakota Department of Transportation (SDDOT) has been declared the designated recipient by FTA to administer the Section 5311, 5310 and 5339 funds for the small urbanized areas and rural areas of South Dakota. The designated recipient is responsible for receiving and apportioning FTA funds to eligible projects and applying for funds on behalf of all eligible subrecipients.

SDDOT, Metropolitan Planning Organizations (MPO), and Section 5307 recipients determine the allocation to the small urban areas in South Dakota. SDDOT allocates a sub-allocation of Section 5310 and 5339 to the small urban areas based on a predetermined percentage and will allocate the funds to rural public transportation subrecipients based on local needs, priorities, and availability of federal and local funds.

All projects will be included in the Transportation Improvement Program (TIP), Long-Range Statewide Transportation Plan, and Statewide Transportation Improvement Plan (STIP).

As the designated recipient, SDDOT will submit grant applications to FTA for Section 5311, 5310 and 5339 funds and report on behalf of the subrecipients regarding projects listed in the Program of Projects (POP). SDDOT will review subrecipients and projects to ensure compliance with all applicable federal requirements. The individual federal programs are listed below.

### **Section 5311**

#### **Purpose**

This program provides capital, planning, and operating assistance to states that support public transportation in rural areas with populations less than 50,000 where many residents often rely on public transit as one of their means of transportation for accessing many services.

#### **Eligible Activities**

Planning, capital expenses, operating expenses, job access, reverse commute projects, and the acquisition of public transportation services are eligible.

### **Section 5310**

#### **Purpose**

This program is intended to enhance mobility of seniors and individuals with disabilities. This section of funds will provide for programs to serve the special needs of transit-dependent populations beyond traditional public transportation services and Americans with Disabilities Act (ADA) complementary paratransit services. 5310 funding is divided between Urban and Rural funding, with each funding type being exclusive to their setting.

## **Eligible Activities**

### **Traditional**

- Vehicles
- Wheelchair lifts
- Ramps
- Securement devices
- Transit-related information technology systems
- Mobility management programs
- Acquisition of transportation services under a contract
- Lease or other arrangement.
- Both capital and operating costs associated with contracted service are eligible capital expenses.

### **Nontraditional**

- Travel training
- Volunteer driver programs
- Building an accessible path to a bus stop including curb-cuts, sidewalks

This is not an all-inclusive list.

In addition, mobility management is eligible for 5310 funding along with other projects not listed above, contact SDDOT transit staff for assistance in determining project eligibility.

## **Section 5339**

### **Purpose**

This program provides financing for capital to replace, rehabilitate, purchase buses and related equipment, and projects to construct bus-related facilities.

### **Eligible Activities**

- Acquisition of vehicles for fleet and service expansions and replacement vehicles
- Vehicle maintenance
- Equipment
- Facilities
- Shop and garage equipment.

This list is not all-inclusive.

## **Program Goals and Objectives**

The goals and objectives of South Dakota's transit program include:

- Improving the mobility of people in non-urbanized and small urban areas for purposes of nutrition, health care, shopping, education, recreation, public services, and employment without regard to income or minority status.
- Encouraging the development, improvement, maintenance, and use of public transportation services in rural and small urban areas.
- Encouraging and facilitating the most efficient use of all federal and state funds to provide passenger transportation in non-urbanized areas through the coordination of programs and services.
- Supporting and encouraging participation of private transportation providers in non-urbanized and small urban transportation areas.
- Supporting and improving existing public and privately-owned transportation services for an area rather than implementing new services.
- Improving the mobility of seniors, individuals with disabilities and the general public including minority and low-income populations by supplementing existing transportation programs.
- Provide dependable transportation to seniors and individuals with disabilities in South Dakota within the guidelines and funding levels provided to the state through FTA and the Americans with Disabilities Act.
- Developing and starting new public projects for senior and individuals with disabilities where private or public mass transportation providers are unavailable or unwilling to meet special needs.
- Developing and implementing new public transportation projects (capital, administration, and operations) based on areas of highest priority need.

SDDOT will develop a Statewide Transportation Improvement Program (STIP), which will include 4-year programming of federal transit funds. Annually, during the month of July, SDDOT holds statewide public meetings on the 4-Year STIP. Citizens are encouraged to attend these published public meetings on the STIP to make comments and/or to recommend changes on the projects listed for future funding.

The STIP is reviewed and updated each year for changes and new projects are formulated and placed into the plan. Each year, the STIP is reviewed and if necessary, projects are re-prioritized within the plan's timetable based on changing social and economic factors.

## **Roles and Responsibilities**

The Governor of the State of South Dakota has designated the SDDOT as the agency responsible for administering the Section 5311, 5310 and 5339 programs.

The Office of Air, Rail and Transit; under the Division of Finance & Management has the day-to-day management responsibility for the programs. Other offices supporting SDDOT in administering the Section 5311, 5310 and 5339 programs include:

- The Office of Internal Audits within the SDDOT, reviews single audits of subrecipients that receive more than \$750,000 in federal funds per year. Audit's Office will conduct a statistical sample audit of 5311 subrecipients that do not meet the single audit requirement. Subrecipients with 5311 reimbursement requests receive biannual desk reviews. In addition, Audit's Office reviews and determines subrecipient financial risk based on subrecipient questionnaire and supporting documentation.
- The Office of Procurement Management within the Bureau of Administration secures statewide contracts for state and local government agencies to purchase items.
- The Assistant Attorney General within the SDDOT Office of Legal Counsel reviews agreements between SDDOT and subrecipient for compliance with state and federal requirements.
- The Division of Finance and Management within the SDDOT processes payments to vendors for eligible activities and projects. Finance staff processes the Electronic Clearing House Operations (ECHO) drawdown from FTA. In addition, finance staff prepares and submits the Federal Financial and Transparency Reports.
- The Civil Rights Compliance Officer within the SDDOT Office of Legal Counsel is responsible for Equal Employment Opportunity, Title VI Compliance, and Americans with Disabilities Act compliance.
- The Disadvantaged Business Enterprise (DBE) Liaison Officer within the SDDOT Operations Support Office is responsible for Certifications and SDDOT's overall DBE plans and goals.
- The Metropolitan Planning Organization (MPO) in Rapid City and Sioux Falls review 5310 applications and submit funding recommendations to the Office of Air, Rail, and Transit for approval and award.
- The Cities of Rapid City and Sioux Falls approve and submit 5339 reimbursement requests to SDDOT for reimbursement in addition to the projects to be included in the grant application to FTA.

SDDOT assists in determining public transportation needs for service areas and clientele needing transportation. This assistance may include an inventory of existing public and private transportation services, the total estimated demand for transportation, and the estimated number of vehicles needed to satisfy the unmet demand.

Section 5311 funding is primarily used to support South Dakota rural transit providers with operational and administrative costs of doing business. The SDDOT staff review each transit provider's past performance in terms of budgets, expenses, service area growth, and ridership to formulate the basis for the distribution of funds for the upcoming fiscal year.

Section 5310 funding is intended to provide transportation to seniors and individuals with disabilities. SDDOT primarily funds capital type projects with this section of funding. Private nonprofit organizations are requested to coordinate with local governments during the development of their proposals for transportation services. Many local units of government commit funds for capital costs, operating costs, or both. Also, other public or private operators may be willing to contract to provide necessary services.



Apportioned Section 5310 funds are not currently available for transit providers' operating expenses. In urbanized areas operating assistance can be made available to organizations following the existing procedures for administering Section 5307 formula grants. To determine the availability of these resources, private nonprofit organizations in urbanized areas should contact their MPO.

Section 5339 funding is primarily used to support the state transit providers with the purchase of vehicles, equipment, and facilities. SDDOT staff reviews each transit providers' application for completeness and eligibility. The applications are ranked to formulate the basis for the distribution of funds to each transit provider for the upcoming fiscal year.

SDDOT staff offers technical assistance and oversight to all local groups or organizations that plan to provide public transportation services for a given area. The local group or organization is responsible for development of a functional transportation plan, and SDDOT provides information on available federal and state resources, planning requirements, involvement of other private and public transportation providers, and programming requirements.

## **Coordination**

Coordination has been defined as an arrangement for the providing of transportation services in a manner that is cost effective, efficient and reduces fragmentation and duplication of services. The major purpose of coordination is to increase vehicle utilization and ridership which help local providers meet a greater number of needs by pooling resources.

SDDOT requires all 5310 subrecipients have an approved Coordinated Public Transit Human Services Transportation Plan (Coordination Plan). SDDOT has guidance defining the elements required to be addressed in the plans. Coordination Plans will be developed every five years with updates to be submitted to SDDOT on an annual basis.

Communities with a Coordination Plan are not guaranteed additional state or federal dollars for transit purposes, but they will receive a higher priority for funding from state agencies when dollars for transit vehicle procurements and operating grants are being allocated.

Subrecipients located in the planning area of a metropolitan planning organization (MPO) must ensure that their program of projects is included in the transportation improvement program (TIP) for the area.

## **Eligible Subrecipients**

### **Section 5311, 5310 and 5339**

All subrecipients applying for the above listed funds will be required to complete a Subrecipient Questionnaire. The Subrecipient Questionnaire will be reviewed and ranked to determine the subrecipient's financial risk. Based on the risk assessment, additional technical assistance and monitoring may be required. The result may also weigh in on SDDOT's decision whether to withhold or not award federal funds to the applicant.

Any subrecipient considered non-compliant with SDDOT or FTA rules and regulations will be notified of the non-compliance by SDDOT. The subrecipient will have 90 days from the notification date to resolve all non-compliant issues. If the subrecipient fails to resolve compliance issue(s), allocated funding will be redistributed to other eligible subrecipients.

Subrecipients are required to have at a minimum the equivalent insurance coverage for real property and equipment acquired or improved with federal assistance used to acquire the property owned by the subrecipient per FTA circular 5010.1E.

### **Section 5311 Eligible Subrecipients Include:**

- State Agencies
- Local Governments
- Indian Tribes
- Operators of Public Transportation Services
- Private Nonprofit Corporations

The Rural Technical Assistance Program (RTAP) available under Section 5311 provides grants for training at 100% federal share to eligible rural transit subrecipients.

### **Section 5310 Eligible Subrecipients Include:**

- Private Nonprofit organizations
- Public organizations/entities approved by SDDOT to coordinate transportation services for seniors and individuals with disabilities.
- Public organizations/entities, which certify to the State of South Dakota and are approved by the SDDOT that no nonprofit organizations are readily available to provide transportation services for seniors and individuals with disabilities.

### **Section 5339 Eligible Subrecipients Include:**

- Public Agencies
- Local Governments
- Private Nonprofit Corporations engaged in public transportation, including those providing services open to a segment of the general public, as defined by age, disability, or low income

Subrecipients must have adequate staffing and resources to fully carry out the grant programs and requirements including the following: financial controls including various reports required by SDDOT for expenditures, ridership, capital expenditures, and coordination. SDDOT will also provide in-house training and professional development sessions, which are available to subrecipients both in and out-of-state. This includes assistance to subrecipients providing service predominately to low-income or minority populations. SDDOT will review subrecipient compliance through project performance reviews and grant application and selection process.

## **Eligible Services and Service Areas**

Any agency wishing to provide service under 5311, 5310 or 5339 funds is subject to the rules and regulations of the SDDOT and the FTA C9040.1G, FTA C9070.1G and FTA C5100.1 Circulars. Each application activity is reviewed for eligibility based on federal guidance. The SDDOT supports rural transportation in communities that have the local support for public transportation. New service providers and their proposed service areas are determined by examining existing providers and areas already being served.

The use of rural public transportation providers, as subrecipients of Section 5311, 5310 or 5339 funds, is actively promoted by SDDOT staff. The development of two or more providers within the same rural community is not allowed. This policy encourages coordination and reduces duplication at the local level. SDDOT encourages subrecipients to submit proposals, evaluate cost and benefits, and contract with private sector organizations for goods and services.

The SDDOT does not determine a transit service area; however, service areas must be specifically identified in subrecipient passenger handbooks, rulebooks and/or websites. Services in the State of South Dakota may include transportation to areas which cross state lines. These providers are subject to comply with Federal Motor Carrier Safety Administration (FMCSA) and neighboring state regulations.

The State of South Dakota determines the 5311(f) operating and administrative and/or capital funding levels after consultation with intercity bus providers.

To receive 5310 urban funds, the agency must provide transportation to seniors and individuals with disabilities. In addition, the provider must have a coordination plan or be included in a plan for the designated MPO in which their agency geographically resides in and meet all the eligibility requirements identified in the respective MPO plan.

## **Eligible Assistance Categories**

### **Section 5311**

The following are 5311 eligible and ineligible administrative expenses:

- Eligible Expenses
  - Administrative and overhead (most common)
    - project director's salary
    - secretary and bookkeeper salaries

- office supplies
- audit expenses
- office rent
- utilities
- travel expenses
- vehicle insurance
- vehicle lease
- in-kind expenses
- training

This list is not all inclusive.

- Operating – (most common)
  - fuel
  - oil
  - replacement tires
  - replacement parts
  - garage expenses
  - drivers' and mechanics' salaries
  - dispatcher salaries
  - in-kind expenses
  - vehicle licenses
  - Contractual services expenses directly incidental to the management and operation of transportation services, and which are not otherwise reimbursed are also included.

The list is not all inclusive.

- The following four items are generally **ineligible** for Section 5311 assistance:
  - Costs of advisory councils
  - Indirect transit-related functions or activities of regional or local entities performed as a normal or direct aspect of general public administration (e.g., expenses of a City Council in considering transit matters).
  - Depreciation accrued by public operators, depreciation on facilities or equipment purchased with public (i.e., federal, state, or local) capital assistance, depreciation of an intangible asset, and/or depreciation in excess of the rate otherwise used for income tax purposes.
  - Expenses for contingencies or capital acquisitions, including contributions to a capital reserve account or fund.

SDDOT reimburses eligible administrative expenses on an 82.82/17.18 percent ratio and operating expenses are reimbursed on a 51.76/48.24 percent ratio.

The SDDOT also uses RTAP funds to support rural transit activities for training, technical assistance, research, and related support services. An example of allowed items includes: The Community Transportation Association of America (CTAA) Conference, Dakota Transit

Association support/conference, transit meetings, Passenger Service and Safety (PASS) training, and any case-by-case special trainings. Approved reimbursements are reimbursed at 100%, unless the RTAP Request is submitted after the event, then the amount of reimbursement will be reduced by 10%.

## **Section 5310**

The following are 5310 eligible administrative expenses according to the SDDOT:

- A minimum of 55 percent of 5310 funds shall be available for traditional Section 5310 projects – those public transportation capital projects planned, designed, and carried out to meet the specific needs of seniors and individuals with disabilities when public transportation is insufficient, unavailable, or inappropriate.
  - The following are examples of eligible projects:
    - Acquisition of expansion or replacement vehicles
    - Preventive maintenance
    - Radios and communication equipment
    - Wheelchair lifts
    - Ramps
    - Securement devices
    - Computer hardware, software, and dispatch systems
    - Mobility management
- Up to 45 percent of 5310 funds may be allocated to rural, small-urbanized area or large urbanized area's annual apportionment for public transportation projects (capital only) planned, designed, and carried out to meet the special needs of seniors and individuals with disabilities when public transportation is insufficient, inappropriate, or unavailable.
  - The following are examples of eligible projects:
    - Public transportation projects that meet or exceed the requirements of ADA.
    - Public transportation projects that improve access to fixed-route service and decrease reliance by individuals with disabilities on ADA complementary paratransit service.
    - Alternatives to public transportation that assist seniors and individuals with disabilities.

## **Section 5339**

Eligible projects include:

- acquisition of vehicles
- vehicle maintenance and administrative facilities
- passenger amenities such as:
  - passenger shelters
  - bus stops signs
  - mobile radios
  - supervisory vehicles
  - fare boxes
  - computers

- shop and garage equipment

This list is not all-inclusive.

## **Local Share and Local Funding Requirements**

### **Section 5311**

The local share for capital projects is 20%, 17.18% for administration expenses and 48.24% for operating expenses. There is not a local match requirement for RTAP funds.

### **Section 5310**

The local share for capital projects is 20%, and operating costs is 50%.

### **Section 5339**

The local share for capital projects is 20%.

### **Local Match Resources**

The local share must be provided from sources other than federal funds except where specific legislative language of a federal program permits. The SDDOT will decide annually if any State Public and Specialized Transportation Assistance Funds (Title III-B) will be used to supplement the federal Section 5311 funds.

Local match may include:

- Cash from nongovernmental sources (excludes fares)
- Non-fare box revenues from the operation of public transportation service
- Funds received under a service agreement with a state or local social service agency or private social service organization
- Revenue from the sale of advertising and concessions
- Contributions/Cash in-kind
  - Cash contributed to an applicant by other public agencies and institutions (nonfederal)
  - Private organizations and individuals (excluding fare donations)
  - Non-restricted federal funds may be considered, subrecipient must first obtain approval from SDDOT
- In-Kind Contributions
  - Value of non-cash contributions provided by the applicant and nonfederal parties
  - Contributions of property value
  - Non-expendable personal property
  - Indirect cost to the program
  - Value of goods and services directly benefiting and specifically identifiable to the project or program.

- Allowable project costs financed with cash in-kind contributions shall be accepted as the subrecipient's matching share or other income when such contributions meet all the following criteria:
  - Verifiable from the applicant's records;
  - Not included as contributions for any other federally assisted program;
  - Necessary for proper and efficient completion of project objectives;
  - Not paid by restricted federal funds;
  - Provided for in the applicant's approved budget.
- Valuation of donated expendable personal property, this includes equipment, office supplies, or workshop and classroom supplies. Values assessed to expendable personal property included in the cost or matching share should be reasonable and should not exceed the fair market value of the property at the time of donation.
- Valuation of non-expendable donated property:
  - The value of land and buildings and non-expendable personal property shall not exceed the fair market value of equipment and property of the same age and condition as determined by an independent appraiser.
  - The value of donated space and loaned equipment shall not exceed fair rental value of comparable space and equipment.
- Volunteer services to be used as in-kind local match must be documented. In-kind salaries should be valued equal to the actual salaries received for similar work conducted in the local economy.
  - The basis for determining the value for personal services, material, equipment, buildings, and land must be documented.
- Freight income
- Charter income profit
- All monetary donations generated by the provisions of transportation by the subrecipient are considered revenue and must be used in the calculation of the net operation deficit of the project.
- All fares generated by the provision of transportation by the subrecipient are considered revenue and must be used in the calculation of net operating deficit of the project. All fares must be reported at 100%.
- All income generated as a result of the applicant renting space on the vehicle to a third party for the purpose of advertising is considered revenue and must be used in the calculation of the net operating deficit for the project.

## **Project Selection Criteria and Method of Distributing Funds**

### **Section 5311, 5310 and 5339**

All reimbursement requests with a total purchase amount of \$5,000 or more will require verification by SDDOT of receipt of the items(s) before reimbursements of federal funds are processed. Subrecipients are to notify SDDOT staff to determine the verification process.

SDDOT will notify potential subrecipients of the availability of the grant applications by multiple methods of communications such as email, webpage, and newspapers. Applications not

received by the SDDOT imposed deadline will be considered ineligible for consideration. Subrecipients considered non-compliant with grant regulations at the time of project selection may be determined to not have the technical capacity to receive funding.

Subrecipients will have 90 days to execute the funding agreement provided by the SDDOT. If the subrecipient fails to meet the deadline, the allocated funding will be re-distributed to other eligible subrecipients.

## **Section 5311**

### **Capital Projects**

When Section 5311 funds are used for capital projects the following procedures will be used:

- SDDOT will notify potential subrecipients about the availability of grant applications and the deadline to apply.
- All applications received by the deadline will be reviewed by SDDOT staff. Each of these projects is evaluated by SDDOT using the following criteria:
  - Vehicle funding requests are categorized as a van (small vehicles), light duty buses, or medium duty buses. Considerations for prioritization include:
    - mileage
    - age of vehicle
    - new service or expanding service
    - replacement
    - potential for providing local capital match and operating funds
    - cooperation with local organizations and transit services
    - organization's training
    - maintenance policies
    - coordination plans
    - number of days of service
    - type of ADA vehicle applied for
    - growth percentages for ridership
    - service area
    - communities and clients served
- A prioritized POP is developed and sent to the FTA.

### **Administrative and Operating Projects**

- SDDOT will notify potential subrecipients about the availability of grant applications and the deadline to apply.
- All applications received by the deadline are reviewed by SDDOT staff. Area wide transportation projects are encouraged and given preference. Individual communities or organizations submitting proposals are encouraged to coordinate with existing area wide providers. Funding is based on the submitted budget and past performance. Past



performance indicators include units of service, coordination efforts, financial management and program compliance. Preference is given to existing providers with good records of service and program compliance.

- Project funding will be based on the priority list using the state's fiscal year set-aside amount available under the Section 5311 program.
- A list of projects is submitted as part of the POP, which is attached to the grant application and submitted to FTA for approval.

### **State Imposed Requirements**

Section 5311 subrecipients will achieve operating revenues and/or other income equivalent to 15% of total funds expended for both administrative and operating purposes by the sixth month of the fiscal year. At that time, the SDDOT staff reviews revenue to ensure the 15% is met. If the 15% is not met, the 15% revenue figure is calculated and payment to the subrecipient is decreased until 15% is met. Additionally, subsequent months may be adjusted if the 15% is not maintained. Fares, advertising, and contracts can all be used to generate "on the bus" revenue.

Subrecipients must have the legal capacity to receive federal and state grants. Grantee must have a designated body legally responsible for the overall organization, management, and operations of the transportation system. Subrecipients must have adequate staffing and resources to carry out the grant programs, requirements, and financial controls, which include various reports required by SDDOT. These reports are for expenditures, ridership, capital expenditures and coordination. Subrecipients must adhere to a control environment identified in 2 CFR Part 200, factors that influence corporate culture, transparency, code of ethics, documentation and adherence to agency policies, segregation of duties, physical controls, and a system of approvals. Subrecipients must have sufficient local resources to provide the required match and carry out the proposed project. Subrecipients must have the financial management systems to account for and report on federal and state assistance. Subrecipients must practice sound financial management practices. Subrecipients should use information technology to improve productivity and provide required financial and performance information. Subrecipients must maintain control of FTA-funded equipment, facilities and vehicles and use them to provide public transportation. Subrecipients should have effective procedures to ensure quality service is being delivered to the public. SDDOT will make this review and decide annually during the grant application and selection process as well as during program review if the subrecipient met these requirements. SDDOT will also provide in-house training and make professional development sessions available to subrecipients.

Subrecipients can use vehicles, facilities, and equipment only for the intended purpose under the original agreement. Incidental use for meal delivery is allowed if it does not interfere with passenger transportation service. Vehicles must be available to the general public. Subrecipients performing meal delivery must be prepared to show the SDDOT how the costs are allocated and show an actual cost expense spreadsheet for the meal deliveries. Subrecipients can count meal delivery or bulk meal delivery as one trip count per day.

RTAP requests must be submitted to SDDOT before the event occurs and follow current procedures for submitting requests. For requests submitted after the event the allowable amount will be reduced by 10%. Requests for RTAP reimbursements must be submitted for reimbursement within 90 days of the last day of the event, training session, etc., for eligible reimbursement. Requests for reimbursement after 90 days will not be approved or processed. RTAP funds will be made available for redistribution.

Drivers are required to have a valid operator's license and first aid training within 180 days after the driver begins providing service. The training must be by an instructor certified by a nationally recognized and accredited organization. At least once every three years, providers must ensure each driver completes a refresher first aid course. Defensive driving training must be taken within 180 days after the driver begins providing service. At least once every three years providers must ensure each driver completes a refresher defensive driving course. Training in Passenger Service and Safety (PASS) must be met within 180 days after the driver begins providing service. At least once every three years, providers must ensure each driver completes a refresher course or recertification in passenger service and safety. Employees are required to take 60 minutes of Substance Abuse Awareness training. Supervisors are to attend the Supervisor Reasonable Suspicion Training.

South Dakota requires subrecipients to have an insurance policy with a minimum one-million-dollar liability coverage for death, bodily injury, and property damage. Also required is uninsured and underinsured coverage per SDCL 32-40-9.

Recipients must have flood insurance as required by the Flood Disaster Protection Act of 1973, 42 U.S.C. 4021 (a), for any building located in a special flood hazard area (100-year flood zone), before receiving federal assistance to acquire, construct, reconstruct, repair, or improve that building. Additionally, the building and its contents must be covered by flood insurance in an amount at least equal to the federal investment (less estimated land cost) or equal to the maximum limit of coverage made available with respect to the property under the National Flood Insurance Act of 1968. Current limits are \$500,000 per building and \$500,00 for the contents of each building.

South Dakota requires the driver of any motor vehicle carrying passengers for hire to stop for all railroad crossings per SDCL 32-29-5.

South Dakota requires an annual inspection of large passenger vehicles operated by nonprofit organizations. Each vehicle with a capacity of sixteen or more passengers, including the driver, owned or operated by a nonprofit organization, or privately owned and operated under a contract with a nonprofit organization, and used for the transportation of its members shall be inspected before October first of each year by an inspector approved by the Division of Highway Patrol. The inspector shall ensure the vehicle complies with state law and regulations. A certificate, provided by the Division of Highway Patrol, certifying that the vehicle has successfully passed inspection shall be issued by the inspector and shall be displayed on the vehicle per SDCL 32-21-3.1.

The intercity bus provider will be required to perform yearly meetings with all agencies who provide feeder service to ensure the local communities needs are being met. The SDDOT will need to be included in the follow up e-mail outlining the meeting to ensure compliance.

Subrecipients are required to follow the SDDOT Transit Agency Capital Improvement Plan Manual and the SDDOT Facility Construction Project Guidebook for new facility and large remodeling construction projects.

### **Monthly 5311 Distribution of Funds**

Subrecipients are to complete and submit the SDDOT standardized 5311 Request Form based on the approved 5311 budgets monthly, unless SDDOT has granted approval for quarterly reimbursement submissions.

SDDOT staff requests invoices pertaining to 5311 reimbursement requests, copies of checks and or copies of credit card receipts to provide proof of payment. The SDDOT will review for eligibility and to ensure invoices support reimbursement requests. All concerns will be addressed and resolved before payments are issued. If there are findings, SDDOT may request additional information from other months. Local match resources must also be provided to verify eligible local match sources.

### **Section 5310**

SDDOT is the designated recipient of Section 5310 funds for small urbans and rural transportation. As such, SDDOT is the accountable and responsible entity in South Dakota to monitor and oversee implementation of federally funded transit programs and compliance with all FTA grants regulations from a planning, operational, safety and fiduciary perspectives.

- SDDOT will notify potential subrecipients about the availability of grant applications and the deadline to submit an application.
- All applications received by the deadline are reviewed by SDDOT. Existing public transportation projects are encouraged and given preference. Individual communities or organizations submitting proposals are encouraged to coordinate with existing public transit providers. Units of service, coordination efforts, financial management and program compliance are reviewed when considering projects for funding. Preference is given to existing projects with good records of service and program compliance. Preference is also given to projects that demonstrate involvement and utilization of private transportation services. Before an applicant is awarded, they must have an approved Coordination Plan.
- Applications within Rapid City and Sioux Falls MPO area are received and reviewed by a process determined by each respective MPO. The MPO then submits a recommendation of projects to SDDOT for review and final approval.
- The applications for vehicles are categorized as a van/other, light duty buses, or medium duty buses. Considerations for prioritizing within each category may include:
  - mileage
  - age of vehicle

- new service or expanding service
  - replacement
  - potential for providing local capital match and operating funds
  - cooperation with local organizations and transit services
  - organization's training
  - maintenance policies
  - individual vehicle files maintained
  - spare ratio
  - ADA vs Non-ADA request
  - provided benefit description
  - demonstration of need
  - planning efforts
  - provided access and mobility description
  - written personnel and driver training policy
  - coordination plans
  - number of days and hours of service
  - type of ADA vehicle applied for
  - growth percentages for ridership
  - service area
  - communities and clients served
- Using the state's fiscal year set-aside amount and the ranking process, SDDOT will determine funding priorities. Any applicant with a project that is not funded will receive a notification letter. For funded projects, a notice to proceed will be provided to the applicant.
  - A list of projects is submitted as part of the POP, which is attached to the grant application and submitted to FTA for approval.

### **Monthly 5310 Reimbursement Requests**

Each month, providers shall submit all maintenance invoices to SDDOT for the expenses incurred in the previous month. Each invoice must list the last four digits of the VIN number of the vehicle being serviced as well as the check number or last four digits of the credit card number used. The SDDOT will review all invoices for eligibility. Reimbursement will be on an 80/20 basis, with the state paying 80% of the expenses and subrecipients paying 20% of the expenses. A complete list of eligible preventive maintenance expenses is sent out to all subrecipients once funding has been determined. Any single invoice/repair in the amount of \$2,000.00 or more must be preapproved by SDDOT before reimbursement will be allowed.

An invoice must be submitted to SDDOT for other capital or vehicle reimbursements and approved before the reimbursement will be processed. The invoice must include the check number and date paid.

Subrecipients receiving operating funds will submit a request based on the approved budget to reimbursement on a 50/50 basis. The subrecipient must provide documentation to support the amounts requested along with the matching fund tracking.

## **Section 5339**

SDDOT is the designated recipient of all Section 5339 funds for small urban and rural transportation. Urban funds are awarded to the State, and then suballocated to the Urban areas. As such, SDDOT is the accountable and responsible entity in South Dakota to monitor and oversee implementation of federally funded transit programs and compliance with FTA grant regulations from a planning, operational, safety and fiduciary perspective.

An invoice must be submitted to SDDOT for project activity per funding agreement reimbursements and approved before the reimbursement will be processed. The invoices must be accompanied by copies of checks and or copies of credit card receipts to provide proof of payment.

### **Capital Projects**

When Section 5339 funds are used for capital projects the following procedures will be used:

- SDDOT will notify potential subrecipients about the availability of grant applications and the deadline to submit an application.
- All applications received by the deadline are reviewed by SDDOT staff. Each project is evaluated by the SDDOT using the following criteria:
- The applications for vehicles are categorized as a van/other, light duty buses, or medium duty buses. Considerations for prioritizing each category may include:
  - mileage
  - age of vehicle
  - new service or expanding service
  - replacement
  - potential for providing local capital match and operating funds
  - cooperation with local organizations and transit services
  - organization's training
  - maintenance policies
  - individual vehicle files maintained
  - spare ratio
  - ADA vs Non-ADA request
  - provided benefit description
  - demonstration of need
  - planning efforts
  - provided access and mobility description
  - written personnel and driver training policy
  - coordination plans
  - number of days and hours of service
  - type of ADA vehicle applied for
  - growth percentages for ridership
  - service area
  - communities and clients served

- Applications for facilities are ranked on general service and need. Considerations for prioritizing each category may include:
  - New facility, remodel, repair, improvement, or an expansion
  - Local match source
  - Benefit to agency
  - Demonstration of need
  - Planning efforts
  - Improve enhanced access
  - Land secured
  - Feasibility study
  - Letter of community support
  - Letter of local match source
  - Appraisal complete
  - NEPA complete
- Applications for equipment are ranked on general service and need. Considerations for prioritizing each category may include:
  - new equipment, repair, replace, annual fee, increase revenue, increase efficiency, expansion?
  - Local match source
  - Benefit description
  - Demonstration of need
  - Planning efforts
  - Improve enhanced access and mobility
  - Equipment compatible
  - If for computers/tablets, who will use?
  - Useful life of current system
  - Will it increase efficiency?
- Any subrecipient with a project that is not funded will receive a notification letter. Subrecipients with awarded projects will be sent a notice to proceed.
- SDDOT will send a list of projects as part of the POP, which is attached to the grant application submitted to FTA for approval.

### **Monthly 5339 Reimbursement Requests**

Reimbursement for capital or vehicles purchases are to be submitted to SDDOT for processing. The request must include an invoice and proof of payment.

### **Intercity Bus**

Section 5311(f) of the Federal Transit Act, as amended, addresses the intercity bus program.

## **Intercity Bus and 5311**

The State of South Dakota is required to designate a portion of its Section 5311 apportionment on a program specifically developed to support intercity bus (ICB) transportation in rural areas. SDDOT will use the Intercity Bus Atlas (ICBA) to determine Intercity Bus providers in the area. During the 5311-application process, SDDOT will reach out to Intercity Bus providers to inform them of a funding opportunity to provide intercity bus service in South Dakota. SDDOT will require that the ICB provider who will operate in South Dakota has annual meetings with local transit agencies to ensure their communities needs are being met. The Governor of South Dakota can make an annual certification that all the intercity bus service needs of the state are being met adequately if the state wishes to program less than 15% on intercity bus projects.

## **Annual Program of Projects Development and Approval Process**

### **Section 5311**

A statewide POP is developed by SDDOT based on the following procedures:

- Applications for 5311 are announced annually.
- Public Notice of Applications being accepted for section of funding is published.
- Notice and applications are sent to current 5311 subrecipients. The application is also posted on the SDDOT Transit website as stated in the public notice. The application includes guidance as to what information is required to be included in the application, eligible activities, certifications, and assurances. The 5311 application is a joint application for applying for Title IIIB with the Department of Human Services.
- Applications are reviewed by SDDOT for completeness and eligibility.
- The list of projects potentially funded is included in the POP and attached to the grant application submitted to FTA for approval.
- Following SDDOT and FTA approval, subrecipients are informed of their application approval and contracts are signed between SDDOT and subrecipients.

### **Section 5310**

A statewide POP is developed by SDDOT based on the following procedures:

#### **Rural**

- Applications for 5310 are announced annually. If funds are remaining after the first application cycle, another application cycle may be announced.
- SDDOT will publish public notice of the application opportunity.
- Notice is sent to current 5310 subrecipients. The application is also posted on the SDDOT Transit website, to meet public notice requirements. The application includes guidance on required information to be included in the application, eligible activities, certifications and assurances.
- Applications are reviewed by SDDOT staff for completeness and eligibility. Projects requested in the applications are ranked as defined earlier in this document under project selection. Using the state's fiscal year set-aside amount available under the Section 5310 program, the SDDOT determines the projects to be funded based on ranking.
- The list of projects to be funded is part of the POP that is attached to the grant application for FTA approval.

- Following SDDOT and FTA approval, subrecipients are informed of their application approval and contracts are signed between SDDOT and subrecipients.

### **Small Urban**

- The application cycle for the MPO is announced annually. If there are remaining funds after the first application cycle, another application cycle may be announced.
- Public Notice of Applications is published by the MPO and notice is posted on the MPO website for each application cycle.
- The application process for the small urban allocation is to be conducted by the designated MPO.
- Once the MPO has reviewed and ranked the applications, recommendations are made to the MPO Policy board for approval.
- After the approval process, the MPO forwards the information to SDDOT for review of eligibility and final approval.
- The list of projects to be funded is included in POP which is attached to the grant application for FTA approval.
- Following SDDOT and FTA approval, subrecipients are informed of their application approval and contracts are signed between SDDOT and subrecipients.

## **Section 5339**

A statewide POP is developed by SDDOT based on the following procedures:

### **Rural**

- Application for 5339 funding is announced annually.
- SDDOT will publish public notice of the application opportunity.
- Notice and application forms are sent to current eligible subrecipients. The application form is also posted on the SDDOT Transit website as stated in the public notice. The application includes guidance as to what information is required to be included in the application, eligible activities, certifications and assurances.
- Applications are reviewed by SDDOT staff for completeness and eligibility. Projects requested in the application are ranked as defined earlier in this document under project selection.
- The list of projects potentially funded is included in the POP which is attached to the grant application to FTA for approval.
- Following SDDOT and FTA approval, subrecipients are informed of their application approval and contracts are signed between SDDOT and subrecipients.

## **Funds Transfers**

SDDOT has elected not to utilize the transfer option between rural and urban areas.



## **State Administration and Technical Assistance**

The SDDOT may use up to 10 percent of its total fiscal year 5311 and 5310 apportionment to fund program administration, planning, and technical assistance. The 10 percent that is eligible to fund program administration costs, including planning, may be funded at a 100 percent federal share.

State administration funds are used to fund SDDOT transit staff salaries and travel expenses related to transit administration tasks.

## **State Rural Transit Assistance Program (RTAP)**

The SDDOT views the RTAP Program as an important resource to help strengthen rural transit operations service in South Dakota. The RTAP Program may be divided into the following four functions or categories best determined by SDDOT:

- **Technical Assistance**
  - travel expenses for peer-to-peer network
  - reimbursement to subrecipient for helping new projects get started
  - assistance in responding to contract opportunities
  - support for review of existing systems
  - technical assistance is available to all eligible service providers including those who provide service predominately to low-income or minority populations
- **Training**
  - sponsor workshops
  - scholarships for local providers to attend workshops
  - scholarships for attending Dakota Transit Association conference
  - transit trainings and meetings
  - developing videos and other training tools
- **Related Support Service**
  - support for joint projects
  - cost-sharing of interstate projects
  - surveys
  - assessments
  - support for state transportation conferences
- **Special Studies**
  - DOT staff training
  - interstate projects
  - staff development

## **Public Input and Private Sector Participation**

### **Public Input**

The department has an extensive public involvement plan located online at <https://dot.sd.gov/media/documents/PublicInvolvementPlanFinalSignatureCopy031810.pdf>

### **Private Provider Participation**

SDDOT requires any local group interested in establishing a new or continuing an existing transportation program to contact area public and private providers of transit and paratransit services with information on proposed program.

Subrecipients for Section 5311, 5310 and 5339 funding must publish a notice of intent in a newspaper serving the geographical areas as required within the specific application and provide an affidavit of publication with the Section 5311, 5310 and 5339 grant applications.

Subrecipients are urged by SDDOT to involve the private transportation providers in the planning and early development of proposed projects.

If a public or private for-profit transit provider raises a complaint and requests SDDOT to deny approving the proposed grant application, the following complaint resolution procedure shall be initiated:

- Complaints made directly to the subrecipient shall be resolved locally by the subrecipient's Board of Directors.
- Complaints made directly to SDDOT shall be sent to the subrecipient for local resolution attempts. The subrecipient will be given 14 days to return a written statement from the objecting party stating that the complaint is being withdrawn.
- Failure to resolve complaint(s) locally will require the SDDOT to attempt to resolve the issue.

## **Civil Rights**

The state procedures for compliance with Title VI, EEO, and DBE requirements are in accordance with the South Dakota Department of Transportation Title VI Program, the South Dakota Department of Transportation EEO Program, and the South Dakota Department of Transportation DBE Program, respectively.

The SDDOT is required to have a complaint procedure and process for handling complaints by any of the protected classes including people with disabilities. To minimize complaints, drivers must attend Passenger Service and Safety (PASS) training and maintain their certification to ensure that subrecipients operate vehicles and equipment safely and properly assist passengers with disabilities.

## **DBE**

Subrecipients must provide disadvantaged business enterprises (DBE's) the maximum opportunity to compete for and perform contracts and subcontracts financed in whole or in part with federal funds.

Subrecipients that expend more than \$250,000 in FTA funds on third-party contracts must meet additional requirements as determined by SDDOT in consultation with FTA.

SDDOT will take steps to ensure that contracting opportunities are a size that small businesses, including DBEs, can reasonably perform. SDDOT will not bundle projects or contract requirements, which can pose an excessive burden on small businesses.

Subrecipients will take all necessary and reasonable steps to:

1. identify contracting opportunities;
2. analyze area DBE availability;
3. use good faith efforts to utilize DBE firms; and,
4. maintain necessary records to verify steps taken and participation achieved.

Subrecipients will file semi-annual DBE activity reports. This report details:

1. dollar value of contracting opportunities,
2. expenditures made to certified DBE firms; and,
3. number of vendors used for contracting opportunities.

## **EEO**

Subrecipients may not discriminate against any employee or applicant for employment because of race, color, religion, national origin, sex, age, or physical or mental disability.

In accordance with EEO circular 4704.1A each recipient, subrecipient and contractor who meets both of the following threshold requirements must implement all the EEO Program Elements:

- Employs 100 or more transit-related employees, and
- Requests or receives capital or operating assistance in excess of \$1 million in the previous federal fiscal year, or requests or receives planning assistance in excess of \$250,000 in the previous federal fiscal year.

Providers that have between 50-99 transit-related employees are required to prepare and maintain an EEO Program that includes the statement policy, dissemination plan, designation of personnel, assessment of employment practices and a monitoring and reporting system.

SDDOT requires an EEO Program be submitted every three years, as part of the Title VI review.

Currently there no transit providers who meet the new threshold to require submission of an EEO Program document. There are four South Dakota transit providers who meet the threshold to prepare and maintain an EEO program. The SDDOT provides training and templates to the providers and then reviews them and assists with any areas of non-compliance. SDDOT reviews

applicable subrecipient EEO plans for compliance by referencing guidance from FTA circular and knowledge of EEO requirements.

## **Title VI**

Each subrecipient will submit a signed and dated Standard SDDOT Title VI Assurance, which is part of the subrecipient funding agreement. As a part of each third-party contract executed, the local recipient will sign a local Civil Rights Assurance.

Subrecipients will file an updated Title VI program every three years and are reviewed on a three-year basis. The Title VI Programs must detail: A) Title VI complaint procedures, B) Records of Title VI investigations, complaints, or lawsuits, (C) Access to service by persons with limited English proficiency; D) Notification of beneficiaries of their rights under Title VI and (E) Public Participation Plan.

The SDDOT Civil Rights Officer will conduct site visits with each subrecipient. Civil Rights will be one of the items of discussion. All complaints of a Civil Rights nature will be forwarded to SDDOT's Civil Rights Officer for investigation and resolution.

Every three years SDDOT will conduct a monitoring review of all transit providers (rural and MPO) and collect all Title VI programs from subrecipients. The process is designed to evaluate whether providers distribute funds in a nondiscriminatory manner. In addition, civil rights procedures and documentation questions are included in the transit program reviews. Training and guidance is provided by SDDOT to ensure providers are compliant with the regulations.

## **504**

Subrecipient shall not discriminate against an individual with a disability in connection with the provision of transportation services. Entities operating a fixed route system must provide paratransit or other special services that is comparable to the level of services provided to individuals without disabilities who use the fixed-route system.

Subrecipients will submit to SDDOT their assurances of compliance with the Section 504 regulations and the Americans with Disabilities Act (ADA). This certification is part of the agreement with the subrecipient. This transportation shall be reasonable in comparison to the transportation provided to the general public and shall meet a significant fraction of the actual transportation needs of such persons within a reasonable time.

All capital purchases approved by SDDOT will show consideration for any persons with disabilities' needs currently unmet in the project area. SDDOT obtains a certification of equivalent service from Section 5311, 5310 and 5339 subrecipients that acquire non-accessible vehicles for demand-response service within the 5311, 5310 and 5339 Application. If a subrecipient chooses to use inaccessible vehicles in demand-responsive service, SDDOT monitors compliance with equivalent service. The 5311, 5310, and 5339 application requires completion of Level and Use of Service information plus reviews, and ridership data reports.

Included in the vehicle bid specifications, the SDDOT ensures that every FTA funded vehicle the subrecipients receives comply with the ADA requirements for the type and size of the vehicle. As

part of the new vehicle inspections before delivery, the SDDOT staff completes the Optional Vehicle Acquisition Checklist (Circular 4710.1) as part of the new vehicle inspection. During the biennial vehicle safety/inventory inspections all vehicles are checked to ensure that the vehicle and ADA equipment and specifications are ADA compliant and operational.

During the biennial safety/inventory inspections the facilities/equipment are inspected for ADA compliance using the SDDOT Asset Inspection Checklist, which includes ADA requirements. If a new facility or current facility modifications are being planned, as part of the specifications and pre-construction review with the architectural staff, the current ADA Regulations are reviewed to ensure compliance. The program review is also used to monitor ADA compliance by addressing several ADA related questions and reviews of vehicle and facility signage.

Drivers are required to receive Passenger Service and Safety Driver Certification within 180 days after the driver begins providing service. At least once every three years, the provider must ensure that each driver completes a refresher course or recertification in passenger service and safety.

Subrecipients are required to have Title VI/Nondiscrimination Complaint procedures which include ADA complaints. The complaint procedures, forms and processes are reviewed as a part of the Title VI subrecipient review (every three years). Templates of complaint procedures and forms are provided for subrecipients online. Technical assistance is provided to subrecipients on ADA requirements. Subrecipients are required to keep separate complaint logs for ADA complaints and submit them with the Title VI complaint logs every three year as part of the Title VI review.

If a subrecipient would make the threshold requiring an ADA Transit Plan those plans would be submitted with Title VI review documentation and reviewed at that time.

## **Section 5310 and 5339 Program Measures**

Minimum federal reporting requirements are required on all projects. Transit program reviews are conducted at least once every three years on subrecipients receiving both Section 5311 and 5310 funds; in addition to an inspection of all 5310 and 5339 vehicles conducted every two years. Subrecipients will be evaluated on a continuing basis as needed.

A Vehicle Ridership Report is required on an annual basis for every vehicle purchased with federal funds. Reports include the subrecipient name, provider name, period covered, vehicle number, license number, serial number, operating characteristics, ridership, and trip purpose. All ridership reports are due by October 31<sup>st</sup> and must be submitted online into the Transit Asset Management software (ThingTech) reporting system. If vehicle ridership reports are not received by SDDOT by October 31<sup>st</sup> (or as required), SDDOT may withhold all reimbursements to that subrecipient until the reports are submitted and received by SDDOT.

The SDDOT also requires all subrecipients of 5310 funding to submit a community Coordination Plan, which is valid for five years from the approved date, unless an extension is approved by SDDOT. Each year following the initial submission, subrecipients must provide an update of the

coordination plan. This plan must be approved by SDDOT. SDDOT requires that program measures be updated every year and contain the following elements:

- Gaps in the service filled.
- Improvements related to service or the availability of service because of other 5310 projects implemented.
- Changes to the infrastructure, technology, or vehicles because of other 5310 projects implemented.

## **Maintenance**

Subrecipients must maintain FTA-funded equipment, facilities, and vehicles. Subrecipient must have a written routine and preventative maintenance plan and must maintain assets at a high level of cleanliness, safety, and mechanical soundness. Subrecipient must maintain all accessibility features and equipment in operating condition. Subrecipient must maintain a file on each FTA-Funded asset containing inspections and maintenance.

It is required that each provider have an asset maintenance plan. Rural providers are required to implement the SDDOT Asset Maintenance Plan other providers may also utilize the template. The SDDOT Asset Maintenance -Plan Template explains in greater detail the standards for general preventive maintenance, ADA feature maintenance, record keeping, cleaning schedules, facilities, and safety requirements. The asset maintenance plan is located on the SDDOT web page. <https://dot.sd.gov/media/documents/AssetMaintenanceplantemplate.docx>

## **Property Management**

Below are SDDOT useful life standards. Also reference SDDOT Transit Asset Management (TAM) Plan for useful life, condition rating and state of good repair determination.

### **Revenue Vehicles:**

- Other Light Duty Vehicles (automobiles, minivans, or SUV's): The useful life has been defined as 4 years, or 100,000 miles or 3,333 hours.
- Medium Size Light Duty Van: The useful life has been defined as 5 years or 150,000 miles or 5,000 hours.
- Medium Size Medium-Duty Buses: The useful life has been defined as 7 years or 200,000 miles or 6,667 hours.
- Small Heavy-Duty Buses: The useful life has been defined as 10 years or 350,000 or 11,667 hours.
- Large Heavy-Duty Buses: The useful life has been defined as 12 years or 500,000 miles or 16,667 hours.
- Trolleys – Rubber Tires: The useful life has been defined as 15 years or 350,000 miles or 11,667 hours.
- Trolleys – Steel Wheels: The useful life has been defined as 25 years or 350,000 miles or 25,000 hours.

### **Non-Revenue Vehicles:**

- Staff Vehicles: The useful life has been defined as 6 years or 150,000 miles or 5,000 hours.

- Pickup Truck: The useful life has been defined as 12 years or 150,000 miles or 5,000 hours.
- Heavy Duty Service Truck: The useful life has been defined as 18 years or 150,000 miles or 5,000 hours.
- Tow Truck: The useful life has been defined as 20 years or 180,000 miles or 6,000 hours.

#### **Facilities and maintenance equipment:**

- The useful life is based on industrial standards published.
- The expected useful life of a facility is between 40 and 50 years based on type of material construction and established industry standards.

#### **Transfer or Disposition of Capital**

For subrecipients who request the release of vehicles with remaining life where federal reimbursement may be required, SDDOT will make the determination if a vehicle should be transferred to another subrecipient. The SDDOT staff will determine the current market value of the vehicle and corresponding federal reimbursement amounts and prepare all the necessary written transfer agreements and forward to all parties involved for signatures before the actual physical transfer takes place.

SDDOT will identify to FTA which vehicles have had the federal interest transferred to another subrecipient via an updated POP and this will be submitted annually to FTA via the electronic reporting system by October 31<sup>st</sup>. The POP will include the name of the subrecipient the vehicle was transferred to, the name of the subrecipient the vehicle was transferred from, the year and make of the vehicle, and the grant number the vehicle was originally purchased with.

SDDOT staff will review vehicles for requested for disposal outside the set criteria on a case-by-case basis. SDDOT staff will review the age of the vehicle, mileage, and physical and mechanical condition to determine whether the vehicle has a market value of less than \$5,000. Market value for vehicle will be determined by depreciating the yearly estimated market value of the vehicle by a rate of 18% per year.

For the disposition of supplies and equipment, if the useful life has been met and the subrecipient receives a total aggregate fair market value that exceeds \$5,000, the subrecipient may be required to compensate FTA 80% or may be allowed transfer the sales proceeds to reduce the gross project cost of another capital project. When the subrecipient receives insurance proceeds because project property has been lost or damaged by fire, casualty, or natural disaster, the grantee must:

- Apply those proceeds to the cost of replacing the damaged or destroyed project property taken out of service, or
- Return to FTA an amount equal to the remaining federal interest in the lost, damaged, or destroyed project property.

The federal interest is not dependent on the extent of insurance coverage or on the insurance adjustment received.

SDDOT may release the federal interest in a vehicle at any time after a vehicle has reached its end of useful life. SDDOT may transfer a vehicle to another subrecipient for which a release request has been received, if the vehicle is in a state of good repair and can be utilized as a revenue service vehicle by another rural provider. SDDOT will maintain records on vehicles with remaining federal interest and will notify in writing to the applicable subrecipient when the federal interest has been released. Copies of the written release letter will be maintained at SDDOT.

The transfer or disposition of facilities or real property will be reviewed on a case-by-case basis in accordance with FTA regulations and Regional FTA guidance. The expected useful life of a facility is between 40 and 50 years based on type of material construction and established industry standards.

### **Vehicle Maintenance and Inspection Records**

In the owner's manual included with each vehicle, there is a complete vehicle maintenance schedule provide for tracking maintenance service. The schedule lists the service functions and the service time intervals in months, miles, or cycles. Each transit provider is required to service the vehicle(s), at a minimum, in accordance with the maintenance schedules, and to keep detailed individual vehicle records to show that service was completed. In addition, all repair services for each individual vehicle shall be included in the service record file. During an inspection, SDDOT staff may ask to review individual vehicle maintenance records and will randomly pick maintenance reports to review.

All maintenance of rolling stock (revenue and non-revenue) is required to be tracked in ThingTech by each provider according to the TAM plan.

### **Warranty claims**

Warranty issues with vehicles or equipment are performed by the subrecipient with the company sales manager or local service center. It is the responsibility of the provider to contact SDDOT with all warranty issues and how they are resolved.

### **Pre-Trip Inspections Required of All Vehicles**

It is required that all revenue service vehicles funded through assistance with FTA funds will have a detailed pre-trip inspection performed each day the vehicle is used. Addressing vehicle condition, appearance, cleanliness, and safety. The inspection shall be dated and signed by the driver performing the inspection. A pre-trip inspection requires drivers to inspect their vehicles before the vehicle departs the garage or parking area. The pre-trip inspection form shall note any maintenance and repair issues discovered during the pre-trip inspection. The form will be forwarded to the designated staff at the end of the shift for action to resolve noted issues. If a vehicle is found to be unsafe during the pre-trip inspection the appropriate staff shall be notified immediately, and the vehicle shall be placed out of service until the safety issue is corrected. A pre-trip inspection form is available from the SDDOT and is posted on the transit website. Daily pre-trip inspections forms will become part of each individual vehicle's maintenance records. A paper or paperless form may be used.



## **Facility\Equipment Maintenance Plan**

The facility\equipment maintenance plan is required and includes a series of weekly, monthly, and annual inspections. Routine maintenance actions are required to ensure the proper care and maximum useful service life is obtained of facilities and equipment. Each transit provider shall maintain a detailed record keeping system for each facility and piece of equipment to ensure it is inspected and maintained on a routine basis per manufacturer specifications and SDDOT guidelines. Permanent records of maintenance, repairs and inspection activity for each building and piece of equipment will be retained on site and copies kept on file at each transit provider main office for review by SDDOT or FTA.

All facilities and equipment maintenance are required to be tracked in ThingTech software by each participant of the SDDOT TAM plan. Participants should refer to the TAM Plan for tracking requirements.

## **Wheelchair Lifts and other Accessibility Equipment**

The USDOT ADA regulations (including 49 CFR 37.163); “Keeping Vehicle Lifts in Operative Condition, Public Entities,”) require all vehicle and capacity accessibility features, such as the wheelchair lift, ramps, securement devices, signs, and communication equipment for persons with disabilities, as well as elevators in the subrecipient facilities, be maintained and operational. The accessibility features must be repaired within the timeframes specified in the regulations if they are damaged or out of order. When the equipment is not working, the subrecipient will take reasonable steps to accommodate persons with disabilities. The ADA maintenance elements may be incorporated into the regular maintenance plan or addressed separately with specific checklists. At a minimum, the subrecipient must show the accessibility features are checked regularly for proper operations, receive periodic maintenance per manufacturer specifications, and are repaired promptly if out of order.

## **Inventory**

It is required that subrecipients maintain an equipment inventory tracking for any equipment asset costing \$5,000 or more. SDDOT will report any asset over \$50,000 to National Transit Database (NTD) according to the TAM requirements. SDDOT subrecipients will use ThingTech to track equipment. In addition, all equipment should be tagged or otherwise identified as federally assisted property.

All rolling stock (revenue and non-revenue) are required to be tracked in ThingTech by each provider according to the TAM plan.

All facilities inventory is required to be tracked in ThingTech by each participant of the SDDOT TAM plan. Participants should refer to the TAM Plan for tracking requirements.

## **Charter Rule**

Subrecipients are prohibited from using federally funded equipment and facilities to provide charter services except in accordance with allowable exemptions or exceptions. Subrecipients will sign a funding agreement which states subrecipients will comply with Charter Rule.

If a subrecipient provides any exception charter trips they are required to submit a quarterly report to SDDOT documenting the trips using the FTA reporting template.

A review of charter services and documentation are reviewed during SDDOT transit program reviews. The SDDOT will provide training to subrecipients regarding charter regulations through transit staff meetings, program meetings, presentations, and other media.

SDDOT requires each subrecipient to research willing and available charter services in their area when requested to perform charter transportation. They are required to follow the required protocol of the charter rule.

When charter service is provided, the subrecipient is required to maintain notice records in an electronic format for a period of at least three years from the date of service or lease. The grantee may maintain the required records in other formats in addition to the electronic format.

- Clear statement identifying which type of exception trip the transit provider provided.
- Documentation logging all charter trips provided in the quarter. (Do not have to include the specific origin-to-destination information due to safety and security reasons. If this information is excluded, the service shall describe the reason why such information was excluded and provide generalized information.)

Charter Resources Available: <https://www.transit.dot.gov/regulations-and-guidance/access/charter-bus-service/charter-bus-service-regulations-0>

If a complaint is made, SDDOT will investigate the complaint with the transit provider. If the transit provider is found to be in violation of their grant agreement, they will be directed by SDDOT to discontinue the service. If the transit provider is found to have been compliant with their grant requirements and in accordance with federal law, SDDOT will notify the complainant.

Subrecipients are required to submit a report to SDDOT of the exception charter trips performed quarterly using the charter reporting form. <https://www.transit.dot.gov/regulations-and-guidance/access/charter-bus-service/team-report-form>

## **National Transit Database Reporting**

Subrecipients of FTA Section 5311 funds are required by statute to submit data to the National Transit Database (NTD). The NTD performance data is used to apportion FTA funds. The reporting and uniform systems contain appropriate information to help any level of government make a public-sector investment decision.

SDDOT will report the information relating to the NTD on behalf of Section 5311 subrecipients. To assist SDDOT to complete the reporting requirement the Section 5311, subrecipients report required information on their 5311 Reimbursement Request form for each submission. Information that is reported to the NTD includes financials, operational data, and a condition rating of all assets.

## **State Program Management**

### **Procurement**

SDDOT and Subrecipient must comply with the relevant sections of FTA C 4220.1F and South Dakota Codified Laws pertaining to procurement. Recipients are prohibited from contracting for goods and services from individuals that have been suspended or debarred from receiving federally assisted contracts.

The SDDOT and subrecipient will determine the responsible party to conduct the procurement for new Section 5311, 5310 and 5339 funded vehicles, equipment, and facilities in accordance with state bid letting procedures. The majority of all vehicles will be procured by SDDOT. Specialty vehicles procurements will be discussed, and responsible agency will be determined. SDDOT encourages all subrecipients to use ProcurementPro for all procurement guidance. SDDOT requires all rural providers to implement the SDDOT procurement policy template other agencies may use as well. All subrecipients must have a written procurement procedure policy approved by the agency's board or commission.

For construction of a new facility or an addition or remodel to an existing facility, the SDDOT will follow the guidance provided in the construction manual

<https://dot.sd.gov/media/documents/SDDOTFacilityConstructionProjectGuidebook.pdf> and Procurement Policy Template <https://dot.sd.gov/media/documents/procurementtemplate.docx>

SDDOT verifies ADA requirements are specified in specifications for acquisition of vehicles and construction and/or modification of facilities to ensure that subrecipients are ADA compliant. SDDOT obtains a certification of equivalent service from Section 5311, 5310 and 5339 subrecipients that acquire non-accessible vehicles for demand-response service within the 5311, 5310 and 5339 Application. If a subrecipient chooses to use inaccessible vehicles in demand-responsive service, SDDOT monitors compliance with equivalent service. The 5311, 5310 and 5339 application requires completion of Level and Use of Service information plus reviews, and ridership data reports

SDDOT ensures the bidding process is open and competitive and the process provides best values. The SDDOT will use public announcements by means of printed media, website posting, and individual electronic/written announcements to inform all interested parties and ensure there are no geographic preferences. SDDOT will attain the proper FTA certifications and clauses and maintain all records and documents pertaining to the purchase for the period as required by the record retention protocols. SDDOT will complete the certification Pre-award reviews to determine good standing of the bidders according to State and Federal regulations. Post-Delivery reviews are performed as required.

Price comparisons and micro purchases are performed by the subrecipients under the guidance of SDDOT, because of the small quantities and large difference in needs and requirements. If the purchase is classified as a price comparison purchase, the subrecipient is required to have a process to ensure purchases are at a fair and reasonable price. The subrecipient is required to conduct a simple price or cost analysis to determine the best value according to internal purchasing thresholds and practices. The subrecipient will also document criteria used to determine quotes were fair and reasonable. In the case of purchases defined as micro purchases (those less than \$24,999.00), the subrecipient is required to obtain three written quotes from three independent sources. In micro purchases, the subrecipients are required to attain the proper FTA certifications and clauses from the winning bidder and maintain all records and documents pertaining to the purchase for a period as required by the record retention protocols.

For purchases of \$25,000 and over, the Simplified Acquisition method should be used by either using the invitation for bids (IFB)\sealed bids or request for proposal (RFP). Subrecipients are required to attain the proper FTA certifications and clauses and maintain all records and documents pertaining to the purchase for a period as required by the record retention protocols. All subrecipients must have a written procurement procedure policy approved by the agency's board or commission.

For professional service contracts, \$50,000 or over, providers should contact the SDDOT for guidance.

The Brooks Act applies to all projects when architects and engineers are needed for design contracts and construction agencies. All projects that enact the Brooks Act will be supervised by SDDOT staff. The SDDOT has an established program to create a retainer list consisting of several consultants for the various fields of expertise, such as architectural engineering, design, etc... This retainer list is renewed every few years. If a consultant from the DOT retainer can be utilized, this is our first choice. If no qualified candidate is on the retainer list, then the SDDOT will procure the professional services by means of an RFP using qualifications-based process in accordance with the Brooks Act. Firms will be selected based on SDDOT criteria. Price is then negotiated with the most qualified firm.

The Davis Bacon Act applies to all federally funded contracts in excess of \$2,000 for the construction, alteration, or repair (including painting and decorating) of federally funded projects. Each covered contractor and subcontractor must, on a weekly basis, provide the contracting agency a copy of all payrolls. Each payroll submitted must be accompanied by a "Statement of Compliance". Agencies must email all Davis Bacon payroll paperwork to SDDOT office every 30 days for review.

Subrecipients are required to submit to the SDDOT Transit staff the following for simplified acquisition procurements.

- Bid packet and Independent Cost Analysis for review prior to soliciting bids\proposals.
- The following documentation is required to be submitted prior to award for review and approval.

- Completed procurement checklist documenting process up to the award.
- Summary of bids\proposals.
- Signed certifications and clauses.
- Recommendation of award.
- Documentation of responsiveness and responsibility.
- Price reasonableness analysis.
- DBE forms

SDDOT will submit documentation to FTA justifying the action taken for anything requiring FTA approval.

No employee, officer or agent of the State of South Dakota or approved third-party applicant shall participate in the selection, award or administration of a procurement supported by federal funds, if, to his or her knowledge, any of the following has a financial or other interest in suppliers considered for award:

- Is an employee, officer, or agent;
- Any member of his or her immediate family;
- His or her partner; or,
- An organization, which employs or is about to employ, any of the above, has a financial or other interest in the firm selected for the award.

No employee, officer, or agent of the SDDOT or approved third-party applicant shall receive gratuities, favors or anything of monetary value from suppliers considered for award. All SDDOT staff members are required to sign and comply with the Standard of Conduct Policy Letter.

SDDOT staff will be alert to any organizational conflicts of interest or noncompetitive practices among vendors, which may restrict or eliminate private sector competition or otherwise restrain trade.

All procurement transactions will provide maximum open and free competition. Contract provisions that may amount to cost-plus-a-percentage-of-cost contracting is prohibited.

### **Financial Management/Contract**

A contract between SDDOT and each subrecipient will be fully executed prior to any reimbursement. The contract provides for federal reimbursement of up to 80% of the costs for capital equipment, 82.82% for net administration costs and 51.76% of the net operating costs. The federal reimbursement percent for 5310 operating is 50%. A minimum level for revenue is set at 15% of total administrative and operating costs by the sixth month of the fiscal year. At that time, SDDOT reviews projected revenue to ensure that the 15% is being met. If the 15% is not met, the 15% revenue figure is calculated and payment to the subrecipient is adjusted until the 15% is met. Additionally, subsequent months may be adjusted if the 15% is not maintained.

- Operating and Administrative Reimbursement:
  - Each subrecipient will submit the standard 5311 or 5310 Reimbursement Request form to request reimbursement for 51.76% or 50% of the net operating costs and

82.82% of the administrative costs that are directly related to the project approved budget. Eligible operating and administrative costs are defined by SDDOT.

- Capital Reimbursements:
  - Invoices are submitted to SDDOT from sub-recipients for review and reimbursement. SDDOT reviews for eligibility and if subrecipients have an active agreement for such purchases SDDOT will submit for reimbursement.
  - **Rolling Stock:** SDDOT will submit reimbursement after verification has been made that the purchase meets requirements and vendor has provided all the required documentation then SDDOT will verify that subrecipient has an active agreement for the project, then submit for reimbursement to either the subrecipient or vendor.
- All invoices should include the date paid and check number or the last four digits credit card number.

SDDOT, Division of Management and Finance, will submit reimbursement to FTA using the ECHO Payment Request Form.

### **Property Management**

Real estate, facilities, vehicles, and equipment acquired using FTA funds are supervised and reviewed for proper usage and maintenance by means of on-site safety equipment and asset management inspections on a minimum of once every two years or as determined necessary by SDDOT. Program reviews are performed once every three years. Safety, asset management inspections and program reviews are performed on an alternating schedule. In addition, detailed databases for facilities, vehicles and equipment meeting the established value threshold are maintained on a day-to-day basis. The database maintains historical and financial ownership and acquisition information. This also includes, inspection information, additions, major repair data as well as transfer of ownership and release of asset information.

### **Vehicle, Facility and Equipment Use**

**Section 5311 and 5339:** Subrecipients can use vehicles, facilities, and equipment only for the intended purpose under the original agreement. Incidental use for meal delivery is allowed if it does not interfere with passenger transportation service. Vehicles must be available to the general public. Subrecipients performing meal delivery must be prepared to show the SDDOT office how the costs are being allocated and show an actual cost expense spreadsheet for the meal deliveries.

**Section 5310:** Vehicles acquired under FTA's Section 5310 program are encouraged to be used to the maximum use. They can be used in the following ways:

- By the private nonprofit organization as described in its application.
- By private nonprofit organizations in coordinated services for a variety of seniors and/or individuals with disabilities. It is understood that, at a minimum, the service which was proposed by the private nonprofit organization in its grant application to the state will be provided and that the originally designated clientele will be served.
- By a private for-profit provider, by lease or other contractual agreement with the private nonprofit organization only for the services identified in the grant application. Vehicles

acquired by nonprofit agencies may be leased to private for-profit companies or public bodies where such companies could not otherwise provide required services and where such arrangements result in more efficient and effective service for seniors and/or individuals with disabilities.

- By a public body approved by the state to coordinate services for seniors and individuals with disabilities. It is understood that, at a minimum, service must be coordinated for more than one organization.
- By a public body which certifies to the SDDOT that no nonprofit corporations or associations are readily available in an area to provide services.

When vehicles or other equipment are operated by an agent other than the approved organization in the grant application, control, and responsibility for the operation of the vehicles or other equipment must remain with the original recipient unless transfer of the control and responsibility is to another eligible organization that has been authorized by the SDDOT.

Title to the vehicles and the loss payee of the vehicle insurance policies must be in the name of the subrecipient organization.

FTA does not prohibit a private nonprofit organization from contracting with a public or private-for-profit operator for such services as maintenance, repair, use of garage facilities, and assistance in routing and scheduling.

During those periods when a vehicle is not needed for specific grant related purposes, it may be used for service to other seniors and individuals with disabilities. After the needs of these groups have been addressed, the vehicle may be used for transportation of the general public, on a space available basis, if such a use is incidental to the primary purpose of the vehicle and does not interfere with the use of the vehicle by seniors and individuals with disabilities. Request for this situation must be approved in writing prior to use of a vehicle outside the specific grant related purpose.

Request for a vehicle to be leased must be submitted to SDDOT office. Request must include to whom the vehicle will be leased, the vehicle identification number or serial number, the subrecipient's number to identify that vehicle (the vehicle number), and a copy of the unsigned lease agreement. SDDOT will review the request and proposed lease agreement, SDDOT will approve the request in writing signed by the Program Manager and a signed copy will be provided to the subrecipient. Upon receipt of this approval, the SDDOT shall forward a copy of the signed lease agreement between subrecipient and lessee of vehicle within 45 days.

When a Section 5310 vehicle is used in profit-making services by any operator, the additional costs associated with the service must be borne by the operator. Mileage, ridership, and costs of such service must be reported to the SDDOT. In addition, when a private nonprofit organization realizes a profit from the use of Section 5310 vehicles, that profit must be retained by the organization for transportation purposes.

Subrecipients with Section 5310 vehicles are allowed to use vehicles for incidental use for meal delivery, as long as it does not interfere with passenger transportation service.

## **Maintenance and Disposition**

Refer to maintenance section.

## **Accounting Systems**

SDDOT does not require subrecipients to use a particular accounting system. However, subrecipients are to have financial management systems that meet standards for financial reporting, accounting records, internal control, budget control, allowable costs and source documentation and cash management. Subrecipients should maintain separate records for their projects. SDDOT requires subrecipients to track funds to a level of expenditure adequate to establish that funds have not been used in violation of the restrictions and prohibition of the applicable statutes. Subrecipients are required to have a written accounting and internal control policy. Section 5311 subrecipients are required to track the local match resources and how the funds are being used as match by section of funding.

## **Audits**

- **Single Audit Requirement:** All subrecipients that expend \$750,000 or more in federal funds in one fiscal year must have a single audit performed for that fiscal year ending September 30, submit required documentation timely, and resolve identified issues. Single audit reports must be completed, and the data collection form and reporting package must be submitted to the Federal Audit Clearinghouse (FAC) within the earlier of 30 calendar days after receipt of the auditor's report or nine months after the end of the audit period. If the annual single audit report contains no FTA or other U.S. Department of Transportation (US DOT) program findings, subrecipients are only required to submit a copy of the OMB Data Collection Form (SF-SAC) to the FTA regional office. If the single audit contained FTA or other US DOT program findings, subrecipients are required to submit a copy of the entire audit report to the FTA regional office.
- Subrecipients must resolve audit findings promptly and upon discovery of the issue for audits under the Uniform Guidance requirements. The recipient must resolve deficiencies or opportunities for improvement identified in the audit.
- In addition, the Subrecipient must submit the most current single audit with the Subrecipient Questionnaire each year when requesting funding.
- Subrecipients will submit to SDDOT the certification of the submitted SF-SAC form to the FTA regional office by June 30 each year.

A single audit management decision will be issued to the subrecipient by SDDOT office of Air, Rail and Transit and SDDOT Audits within six months after receipt of the audit report. Each quarter SDDOT will monitor the that audit findings are resolved.



## **Monitoring and Evaluating Projects**

- SDDOT is responsible for the award and administration of FTA contracts and support of grants, recognizing that public funds are being expended, and SDDOT will take every care and precaution to assure that the expenditures are made for allowable costs. All actions are thoroughly documented.
- Equipment, supplies, and facility awards must be completed in two (2) years or less time period unless there are unforeseen circumstances. The completion time period starts on the date of the funding agreement. Only major facility construction projects will be considered for a completion timeline beyond the two (2) year period.
- Agreements with 5311 subrecipients are for a one-year period (fiscal year of funding October 1<sup>st</sup> – September 30<sup>th</sup>). All reimbursement requests must be submitted to SDDOT by November 1<sup>st</sup> of each year. Only expenses incurred October 1<sup>st</sup> through September 30<sup>th</sup> can be submitted for reimbursement under the active agreement.
- SDDOT monitors the grant for the fund balance and sends project tracking reports to the subrecipients regarding the status of the projects. SDDOT issues close out letters to the subrecipient for projects completed or cancelled.
- SDDOT reviews the grants for activity and makes any necessary adjustments to use the funds to close out the grant. Once all the expenditures have been paid then the final draw down is complete on the grant. The finance staff notifies the transit staff when the final reconciliation is completed to initiate the close out process within 90 days of the final activity.
- Minimum federal reporting requirements are required on all projects.
- Transit Program Reviews will be conducted every three years on all subrecipients receiving both Section 5311 and 5310 funds. The Transit Program Review summarizes various program areas and is a means for SDDOT to monitor a subrecipient. A review report is submitted to the subrecipient. An adequate plan of action and signed acknowledgement form is required to be submitted before the review will be closed by SDDOT.
- Vehicle inspections will be conducted using SDDOT inspection criteria at least once every two years. Vehicle maintenance records will be reviewed as part of this review.
- Facility/Equipment inspections will be conducted using SDDOT inspection criteria at least once every two years. Facility and equipment maintenance records will be reviewed as part of this review.
- Technical support will be provided as deemed necessary or upon request for subrecipients.

- Section 5311 and 5310 subrecipients will be evaluated on a continuing basis as needed.
- A Statistical Annual Report consisting of a comparative summary of Section 5311 subrecipients is prepared after the end of each federal fiscal year. This summary is used by SDDOT as a quick reference that gives a capsule look at the transportation services provided by each subrecipient. Each subrecipient of Section 5311 funds is sent a copy of the summary. Data from these summaries may also be used by SDDOT when determining if continued funding is justified and, if so, evaluating the funding levels of each project compared to other similar projects throughout the state. The report is available and provided to stakeholders.
- SDDOT Audits: A review will be conducted on each grant when required, to assure that all payments made for invoices and direct vouchers were made for eligible project costs. Auditors also review and rank the financial risk of the subrecipients utilizing the Subrecipient Questionnaire.
- SDDOT staff and Internal Auditors Offices will conduct an audit on each provider biannually. SDDOT staff requests invoices pertaining to 5311 reimbursement requests per provider in the designated month designated by SDDOT each year. The SDDOT will review for 5311 eligibility and that invoices support the reimbursement requests. All concerns will be addressed and resolved before payments are made. If there are significant findings, SDDOT may request additional information from other months. Local match resources must also be provided to verify that they are an eligible local match source. The 5311 subrecipient will be notified in the month of their audit to submit the required documentation.
- SDDOT requires an approved Coordination Plan at least every five years. SDDOT also requires subrecipients to identify measurable results and update the Coordination Plan annually. It is encouraged to use the Coordination Plan as a working document to be utilized, evaluated and updated regularly to increase efficiency.
- Only SDDOT approved routing rules are allowed when developing trip manifests. If a subrecipient is found to be using unapproved routing rules, the 5311 funds may be reduced.
- SDDOT will conduct a receipt inspection for any reimbursement request for invoices \$5,000 or more before the reimbursement is processed.
- Requirements are outlined in funding agreements.

### **Record Keeping Requirements**

SDDOT recommends subrecipients follow the below FTA 5010.1.E retention policy.  
RETENTION AND ACCESS REQUIREMENTS FOR RECORDS.

a. Applicability.

This section applies to all financial and programmatic records, supporting documents, statistical records, and other records of each recipient. Records retention and access requirements also apply to the recipient's third-party contractors, third-party subcontractors, and subrecipients. The recipients must include this requirement in third-party contracts, direct each subrecipient to include these requirements in their sub-agreements, and direct its third-party contractors to include these requirements in its third-party subcontracts. These records are:

(1) Records required to be maintained as identified in this circular; or as outlined in the terms of the Grant or Cooperative Agreement, or otherwise considered pertinent to FTA program requirements.

(2) Records executed electronically, that may be retained electronically. However, copies made by microfilming, photocopying, or similar methods may be substituted for the original records, and files must be accessible for possible review, audit, or downloading to paper copy when required.

b. Length of Retention Period.

(1) Except as otherwise specified, records must be retained for three years from the specific start dates specified in Chapter III, subsection 7.c, below.

(2) To avoid duplicate record keeping, FTA may make special arrangements with the recipient (including subrecipients, as appropriate) to retain any records that are continually needed for joint use. FTA will request the transfer of records to its custody when it determines that the records possess long-term retention value. When the records are transferred to or maintained by FTA, the three-year retention requirement is not applicable to the recipient.

c. Starting Date of the Retention Period.

(1) General. In most circumstances, the starting date for retention of records is the date when the recipient submits the final expenditure report to FTA. For a project that is supported with federal assistance across multiple Awards, FTA may request that the starting date for retention of records be the date when the last associated Award is closed. For example, for a large capital project where a third-party contract is funded across more than one Award, retention of records associated with that third-party contract would commence as soon as the last Award financing that third-party contract is closed. If any litigation, claim, negotiation, audit, or other action involving the records has been started before the expiration of the three-year period, the records must be retained for three years after completion of the action and resolution of all issues that arise from it.

(2) Equipment Records. The three-year retention period for equipment records starts from the date of the equipment's disposition, replacement, or transfer at FTA's direction.

(3) Records for Income Transactions after Closeout of the Award. In some cases, the recipient must report income after the Award is closed. When there is such a requirement, the retention period for the records pertaining to the earning of the income starts from the

end of the recipient's FY in which the income is earned, even if it falls after the date of the closeout of the Award (for example, if closeout occurs on September 5, and the recipient's FY ends on June 30 of the following year, record retention begins the next day, on July 1).

(4) Indirect Cost Rate Proposals, Cost Allocation Plans (CAPs) and Similar Rate, and Rate Allocation Methods (including de minimis rate). This paragraph applies to the following types of documents, and their supporting records: indirect cost rate computations or proposals (including de minimis rates), CAPs, and any similar accounting computations or the rate at which a particular group of costs is chargeable (such as computer usage charge back rates or composite fringe benefit rates).

a) If submitted for negotiation. If the proposal, plan, or other computation is required to be submitted to the Federal Government (or to the recipient) to form the basis for negotiation of the rate, then the three-year retention period for its supporting records starts from the date of such submission.

b) If not submitted for negotiation. If the proposal, plan, or other computation is not required to be submitted to the Federal Government (or to the recipient) for negotiation purposes, then the three-year retention period for the proposal, plan, or computation and its supporting records starts from the end of the FY (or other accounting period) covered by the proposal, plan, or other computation.

(5) Third-party Contract Records. The retention period for all third-party contract records required to be retained commences after the recipient(s) makes final payment(s), and all other pending contract matters are closed.

a) Substitution of Photocopies. Copies of documents may be substituted for the originals.

b) Access to Records.

1 Records of Recipients and Subrecipients. FTA, the U.S. DOT Office of Inspector General, and the Comptroller General of the United States, or any of their authorized representatives, have the right of access to any of the recipient's books, documents, papers, or other records that pertain to the Award, in order to perform audits, or make examinations, excerpts, or transcripts.

2 Expiration of Right of Access. The right of access in this section is not limited to the required retention period but continues as long as the records are retained.

c) Restrictions on Public Access. In general, the federal Freedom of Information Act (FOIA), 5 U.S.C. § 552, does not apply to any recipient record owned and possessed by the recipient until the recipient provides that record to the Federal Government. Unless required by state or local law, recipients and subrecipients are not required to provide periodic public access to their records. However, FTA may request a recipient to provide access to those records the recipient maintains on behalf of FTA, (*i.e.*, records required by federal statute or regulation, such as Davis-Bacon wage records), or other records necessary to determine compliance

with federal requirements established as conditions of eligibility for recipients of federal assistance.

### **Productivity, cost-effectiveness, or service standards**

Productivity, cost-effectiveness, and service standards have been addressed throughout this plan, such as the 15% minimum revenue requirement for 5311 funding. For vehicles, SDDOT has adopted the manufacturer's recommended maintenance schedules to be followed. Subrecipients are required to develop and maintain a Coordination Plan to continuously evaluate coordination of services, agencies, and resources. SDDOT also requires only approved routing rules be utilized when routing trips for efficiency.

The SDDOT is also required to have a complaint procedure and process for handling complaints by any of the protected classes including individuals with disabilities. To minimize complaints, drivers must attend PASS, maltreatment, defensive driving and first aid training to ensure that subrecipients operate vehicles and equipment safely and to properly assist passengers. CPR training is not required, and it is under the discretion of the transit provider if they want to make this certification a requirement. SDDOT encourages transit providers to conduct surveys to gather information on needs and services to evaluate the services they are providing.

### **Reporting Requirements**

- SDDOT standardized 5311 Request Form is to be used when submitting for reimbursement.
- 5310 ridership data report Subrecipients with 5310 vehicles are required to submit service data to the SDDOT every October. This data includes counties served, one-way trips performed and the number of unduplicated riders for the previous fiscal year. Information is then gathered by the SDDOT and sent to the FTA.
- Vehicle Ridership Report
  - All vehicle ridership reports must be completed in ThingTech at least annually. All vehicle ridership reports are due each October 31<sup>st</sup>. If vehicle ridership reports are not received by SDDOT by October 31<sup>st</sup> (or as required), SDDOT may hold all reimbursements for that subrecipient until the reports are submitted. Additionally, SDDOT may reduce state funds awarded for the current year by \$100 per day the vehicle ridership report is overdue. Specialized subrecipients will verify their ridership with SDDOT yearly.
  - Subrecipients with 5310 funded vehicles report unduplicated one-way trips and number of clients served(individually) by October 10<sup>th</sup>.
- Annually all subrecipients of 5311, 5310 & 5339 awards shall verify assets in ThingTech and submit current proof of vehicle and facility insurance policies, which include policy coverage dates and dollar amounts. In addition, all 5311, 5310, & 5339 subrecipients are required to submit a completed copy of the Annual Vehicle Use Certification, Bus Facility Use Certification and Shop Equipment and Tool Use Certification.

- Annually each provider is required to submit a Capital Improvement Plan (CIP) according to the Transit Agency Capital Improvement Plan Manual. The reporting form is issued and provided with instructions and deadlines by the SDDOT.
- Project Status Reports will be required at least twice a year for the life of the project.
- Transit Agencies are required to go under the State TAM Plan or develop their own plan. SDDOT plan must be reviewed annually and amended or updated to reflect unforeseen changes. Tam Plan in its entirety must updated every 4 years. d

Transit Agencies are required to go under the state Safety Plan or develop their plan SDDOT safety plan must be reviewed annually.

- Metropolitan Planning Organizations (MPO) must annually submit safety performance targets to the SDDOT for review.

## **Other Provisions**

### **Labor Protection Provisions**

Local recipients will indicate in writing acceptance of the terms and conditions of the Special 13(c) Warranty. Such acceptance will be sufficient to permit the release of Section 5311 funding in the absence of a finding of non-compliance by the U.S. Department of Labor.

A listing of all transportation providers receiving Section 5311 funds, a listing of other eligible transportation providers in the geographic area of each project, and any labor organization representing the employees of such providers is forwarded to the U.S. Department of Labor at least annually.

Agreement in writing to the terms and conditions of the standard Section 13(c) warranty for the Section 5311 program, or substitute arrangements approved by the Department of Labor, is required for all Section 5311 operating projects, including intercity bus projects.

### **Environmental Protection**

Most transit projects funded under Section 5311, 5310 and 5339 will be classified by FTA as environmental categorical exclusions. SDDOT will screen potential projects to make an initial determination as to which projects clearly meet the FTA criteria for categorical exclusions and which projects may require additional documentation to satisfy required environmental clearances. The latter projects will be coordinated with the FTA regional office early in project development so that any necessary environmental analysis and review will not delay implementation.

Section 5310 subrecipients must be aware of the transportation/air quality conformity review process.

### **Pre-Award, Post Delivery Audits and Buy America**

All vendors of applicable Section 5311, 5310 and 5339 funded new equipment will certify in writing, to be in compliance with the Buy America requirements of the Fixing America's Surface Transportation (FAST) Act and the regulations set forth in 49 U.S.C. Section 5323(j) / FAST Section 3011. In addition, SDDOT will conduct a pre-award and post-delivery audit to ensure compliance with SDDOT bid specifications, Buy America, and federal vehicle safety requirements.

### **Equal Employment Opportunity**

In accordance with EEO circular 4704.1A each recipient, subrecipient and contractor who meets both of the following threshold requirements must implement all the EEO Program Elements:

- Employs 100 or more transit-related employees; and
- Requests or receives capital or operating assistance in excess of \$1 million in the previous federal fiscal year, or requests or receives planning assistance in excess of \$250,000 in the previous federal fiscal year.

Providers that have between 50-99 transit-related employees are required to prepare and maintain an EEO Program that includes the statement policy, dissemination plan, designation of personnel, assessment of employment practices and a monitoring and reporting system.

FTA requires an EEO Program be submitted every three years, as part of the Transit Provider's Title VI review. SDDOT will review all EEO program documents at that time.

### **Lobbying**

No federal funds will be used to influence federal or state grants or programs. All Section 5311, 5310 and 5339 subrecipients and bidders for vehicle procurements must complete an annual certification on debarment, suspension and other responsibility matters in each subrecipient agreement. The certification addresses that federal funds are not allowed to pay for lobbying, requirements in submitting the Standard Form, LLL "Disclosure of Lobby Activities, required language to be included in subawards.

Subrecipient, contractors, or subcontractors are required to submit The OMB Standard Form LLL form or quarterly report update to both the FTA Regional office and SDDOT for an event(s) that should be reported.

Also see information regarding debarment and suspension under State Program Management - Procurement.

### **Commercial Driver's License and Drug and Alcohol Program**

The Sub-Recipient will comply with the requirements for commercial driver's license and drug and alcohol testing. South Dakota law requires all drivers of vehicles designed to transport 16 or more persons (including the driver) have a valid class "C" Commercial Driver's License (CDL) with a passenger endorsement "P." Mechanics that drive these vehicles must have a CDL. Any party receiving reimbursements with Section 5311 funds is required to certify annually that it is

in compliance with FTA regulations concerning drug and alcohol testing and must submit an annual report to the State. The Sub-Recipient will sign the Certification of Compliance with FTA Anti-drug and Misuse Prevention Program to this effect which is attached as Exhibit C in the funding agreement. The Sub-Recipient will maintain a drug-free workplace for all employees and must have an antidrug policy and awareness program. The Sub-Recipient must comply with all requirements of 49 CFR Part 32.

### **Employee Protection Provisions of Section 5333(b)**

Before FTA may award a grant for capital or operating assistance, fair and equitable arrangements must be made to protect the interest of transit employees affected by the proposed FTA assistance (49 W.S.C 5333(b), formerly Section 13(c) of the Federal Transit Act as amended). Those arrangements must be certified by the Secretary of Labor as meeting the requirements of the law.

### **Prohibition of exclusive school transportation**

Any subrecipient providing school “tripper service” must include all the services they provide i.e., transportation to medical appointments, shopping, rides to work and education institutions, etc. in their advertising medium. Exclusive school bus service is not allowed.

### **Drug and Alcohol Testing**

Section 5311, 5307, 5309 and 5339 recipients are required to comply with regulations issued by the Federal Transit Administration on drug and alcohol testing, 49 C.F.R. Parts 655 and 49 CFR Part 40. Subrecipients are required to establish and implement a substance abuse program which incorporates training and education but is to be primarily a testing program. Among other requirements, these regulations require that all safety sensitive employees be tested for drug and alcohol use in pre-employment, random, and post-accident, return-to-duty, or reasonable suspicion situations, that certifications be made, and that reports be submitted. Drugs to be tested for include marijuana, cocaine, opiates, amphetamines, and phencyclidine.

The SDDOT requires that each subrecipient complete the Federal Transit Administration Drug and Alcohol collections form (MIS). When a subrecipient does not meet this due date the SDDOT may hold all reimbursements for that subrecipient until the required information is received. Additionally, SDDOT may reduce state funds awarded for the current year by \$100 per day the MIS is overdue. The Program Review includes questions relating to subrecipient’s drug and alcohol policies. Sub recipients are asked to ensure that all CCF/ATF forms are accurate and complete and to report any incompliant behavior on the part of the third-party administrators and collection site. SDDOT will review the subrecipient’s drug and alcohol policy, testing documents, and records during performance reviews.

SDDOT will monitor vendors of testing sites through desk reviews, site visits and mock collections at least once every three years. SDDOT will review program areas, determine compliance, require corrective actions, and verify program procedures are in accordance with FTA requirements. Vendors may be subject to additional oversight and reviewed more frequently. This will be determined on a case-by-case basis with approval from SDDOT’s Program Manager.



Transit agencies are required to have a board approved Drug and Alcohol Policy that complies with the FTA. Also, if any significant changes to federal regulation occur, all employees are required to sign off that they have read and understand the changes of the new policy. This acknowledgement must be kept in the employee's file. All contact information for professional and medical staff such as MRO, SAP, BAT's, and labs must be up to date. The most current copies of their certifications/credentials must be on file with each Subrecipient and submitted during the program review to the DOT.

SDDOT requires a drug-free environment in the transit workplace. The State of South Dakota's ongoing drug-free awareness program is located at the Bureau of Human Resources website.

<http://bhr.sd.gov/forms/policies/Handbook.pdf>

## References

- U.S. Department of Transportation, Federal Transit Administration – Formula Grants For Rural Areas: Program Guidance And Application Instruction Circular FTA C 9040.1G, effective November 24, 2014
- U.S. Department of Transportation, Federal Transit Administration – Enhanced Mobility of Seniors And Individuals With Disabilities Program Guidance and Application Instructions Circular FTA C 9070.1G, effective July 7, 2014
- U.S. Department of Transportation, Federal Transit Administration – Bus and Bus Facilities Formula Program: Guidance and Application Instructions Circular FTA C 5100.1, effective May 18, 2015
- U.S Department of Transportation, Federal Transit Administration - Master Agreement FTA MA(24), effective October 1, 2018
- U.S Department of Transportation, Federal Transit Administration - Annual Certification and Assurances <https://www.transit.dot.gov/funding/grantee-resources/certifications-and-assurances/certifications-assurances>
- Code of Federal 49 Part 655 and Part 40 <https://transit-safety.fta.dot.gov/DrugAndAlcohol/Regulations/Regulations/49CFR655/49cfr655.pdf>
- U.S Department of Transportation, Federal Transit Administration – Award Management Requirements FTA C 5010.1E, effective Rev. 2 July 16, 2018

Code of Federal Register 2 Part 200 and 1201 Uniform Administration Requirements, Cost Principles, and Audit Requirements for Federal Awards. [http://www.ecfr.gov/cgi-bin/text-idx?tpl=/ecfrbrowse/Title02/2cfr200\\_main\\_02.tpl](http://www.ecfr.gov/cgi-bin/text-idx?tpl=/ecfrbrowse/Title02/2cfr200_main_02.tpl)

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